

REMARKS

Thorough examination of the application is sincerely appreciated.

Applicant's claim is amended to clarify and particularly point out the patentable subject matter of the present invention. The amendment is not made for substantive reasons and not in response to the examiner's rejections and/or objections.

According to the Office Action, claims 1 – 10 and 19 – 28 are rejected under 35 USC 102(e) as being anticipated by U.S. Patent 6,587,835 (hereinafter "Treyz"). In response, the rejections are respectfully traversed as lacking sufficient factual support and not grounded in applicable law.

Prior to discussing Treyz, it is respectfully submitted that the examiner refers to different portions of Treyz in claim rejections in paragraph 3 of the Office Action than in his Response to Arguments in paragraph 5 of the Office Action. If the examiner refers to particular portions of the patent, he is requested to rely on those portions in claim rejections as well.

Furthermore, it is respectfully submitted that in paragraph 5 of the Office Action the examiner allegedly quotes from Treyz of col. 2, lines 28-37. The starting quotation marks are inserted, but the closing quotation marks are omitted. This creates an appearance as if the entire paragraph starting with "The coverage of a number of ... " is cited in Treyz. Close examination of the patent, however, reveals that the last sentence in the Office Action paragraph, starting with "Proximity-based messages . . . , " is merely the examiner's conclusion.

Applicant's representative respectfully requests that further communications from the examiner accurately delineate portions of the patent quoted directly from the reference from the examiner's conclusions in order to avoid any misleading inferences.

As asserted in the previous response, Treyz is inapplicable to the present invention. More specifically, Treyz fails to teach or suggest, among other things, Applicant's feature of "the alert signal being provided for prompting an alert message at the mobile wireless device," as recited in claim 1, for example. The examiner asserts that Treyz' "proximity-based messages ... are inherently transmitted using a wireless signal." It is respectfully submitted that Applicant's alert signal does not carry any message, in contrast to Treyz. It is obvious that Treyz "pushes" messages onto the user's handheld device. In contrast to Treyz, Applicant's mobile wireless device generates the alert message. So, the Treyz' so-called "inherent" signal is not equivalent or analogous to Applicant's alert signal. Treyz' message contains information, while Applicant's alert signal contains does not contain message information. This distinction is not addressed in the Office Action.

Furthermore as stated above, Treyz "pushes" messages to the user, while Applicant's mobile wireless device generates the alert message. This distinction is not addressed in the Office Action.

Still further, according to Treyz there is no reason to use GPS in order to interpret the messages. In Treyz, the messages are already generated prior to the reception by the user's handheld device. In contrast, Applicant's mobile wireless device generates the alert message based on the interpretation data in response to receiving the alert signal. Treyz' "canned" messages do not require any so-called GPS "interpretation" data, as alleged by the examiner, while Applicant's interpretation data is needed to generate an alert message by the mobile wireless device. This distinction is not addressed in the Office Action.

If the examiner still disagrees and believes otherwise, he is respectfully requested 1) to particularly point out where such a disclosure can be found in Treyz; 2) to provide an affidavit stating facts within his personal knowledge; or 3) to provide a prior art reference stating the same, because the examiner's interpretation of Treyz can't be supported by the record.

According to the binding case law established by U.S. Court of Appeals for the Federal Circuit and its predecessor Court (as interpreted in Section 2131 of the MPEP), to anticipate a claim, the reference must teach each and every element of that claim. As discussed above, Treyz is woefully deficient in teaching each and every element of Applicant's claim 1. It is, therefore, respectfully submitted that independent claim 1 is not anticipated by Treyz. Withdrawal of the rejection is respectfully requested, as it cannot be sustained legally.

Analysis of independent claim 19 is analogous to the one of claim 1, as presented hereinabove. To avoid repetition, claim 19 will not be discussed in detail with the understanding that it is patentable at least for the same reasons as claim 1. Applicant, therefore, respectfully requests withdrawal of the rejection and allowance of claim 19.

Claims 2-10 and 20-28 depend from independent claims, which have been shown to be allowable over the prior art reference. Accordingly, claims 2-10 and 20-28 are also allowable by virtue of their dependency, as well as the additional subject matter recited therein. Applicant submits that the reason for the rejection of claims 2-10 and 20-28 has been overcome and respectfully requests withdrawal of the rejection and allowance of the claims.

In view of the above, it is submitted that Treyz does not anticipate or render obvious the present invention. Withdrawal of the rejections is, therefore, respectfully requested.

An earnest effort has been made to be fully responsive to the Examiner's correspondence and advance the prosecution of this case. In view of the above amendments and remarks, it is

believed that the present application is in condition for allowance, and an early notice thereof is earnestly solicited.

Please charge any additional fees associated with this application to Deposit Account No. 14-1270.

Respectfully submitted,

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April 30, 2007